

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Morgan Simmons,)	
)	
Plaintiff,)	
)	Civil Action No. 7:17-cv-2337-TMC
v.)	
)	
Spartanburg County,)	ORDER
)	
Defendant.)	

Plaintiff, proceeding pro se, brought this action asserting race discrimination and retaliation claims pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”). (ECF No. 1). Plaintiff alleges that Defendant, his employer, unlawfully discriminated against him on the basis of race, *see* 42 U.S.C. § 2000e-2(a)(1), and then unlawfully retaliated against him when he contacted the Equal Employment Opportunity Commission (“EEOC”), *see* 42 U.S.C. § 2000e-3(a). Defendant filed a Motion for Summary Judgment. (ECF No. 44). Plaintiff filed a Response in Opposition to the Motion for Summary Judgment (ECF No. 53), and Defendant filed a Reply (ECF No. 55).

In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that Defendant’s Motion for Summary Judgment be granted. (ECF No. 69 at 10). The magistrate judge reasoned that “Plaintiff cannot establish a *prima facie* case of discrimination or retaliation because Plaintiff has not established that he suffered an adverse employment action.” *Id.* at 7. Specifically, as to Plaintiff’s discrimination claim, the magistrate judge concluded that “none of the alleged [discriminatory] actions . . . adversely affect[] the terms, conditions, or benefits of his employment.” *Id.* at 9-10. With regard to the retaliation claim, the magistrate judge found that “Plaintiff has failed to offer

any evidence from which a reasonable juror could conclude he was subjected to actions by Defendant that would dissuade a reasonable employee from making a charge of discrimination.”

Id. at 9. Finally, the magistrate judge noted these additional deficiencies in Plaintiff’s attempt to establish a prima facie case of discrimination and retaliation:

Plaintiff has failed to create a genuine factual dispute regarding whether any of these actions occurred under circumstances giving rise to an inference of unlawful discrimination to meet the fourth element of a prima facie case of discrimination under Title VII. Plaintiff has offered nothing to support his conclusory allegation that any of these actions were taken because of Plaintiff’s race. With respect to his retaliation claims, Plaintiff has failed to create a genuine factual dispute regarding whether there was a causal connection between his filing a charge of discrimination with the EEOC and any of these actions, as required to meet the third element of a prima facie case.

Id. at 10 n.7.

Plaintiff was advised of his right to file objections to the Report. (ECF No. 69-1). Plaintiff filed no objections to the Report, however, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a careful and thorough review of the record under the appropriate standards, as set forth above, the court adopts the Report (ECF No. 69), which is incorporated herein by reference. Accordingly, Defendant’s Motion for Summary Judgment is GRANTED. (ECF No.44).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

November 16, 2018
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.